



**Comptroller General  
of the United States**

**Washington, D.C. 20548**

## **Decision**

**Matter of:** Cost Engineering Research, Inc.

**File:** B-239574

**Date:** September 11, 1990

Michael P. Hugo, Esq., for the protester.  
William A. Baumann for Advanced Technology and Research Corporation, Eliot Feldman for Mathtech, Inc., and W. Eugene Waller for Technomics, interested parties.  
Jonathan H. Kosarin, Esq., Department of the Navy, for the agency.  
Scott H. Riback, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### **DIGEST**

Protest alleging that evaluation criteria are unduly restrictive and improperly favor incumbent is denied where agency demonstrates that criteria are reasonably required in order to meet its minimum needs and that adequate competition exists. Fact that firm may enjoy competitive advantage as a result of its incumbency is not legally objectionable where advantage does not result from favoritism or preferential treatment by agency.

### **DECISION**

Cost Engineering Research, Inc. (CER) protests the terms of request for proposals (RFP) No. N60921-90-R-A123, issued by the Department of the Navy for expert cost analysis services to be performed upon complex naval weapons systems that are primarily in an early design or conceptual phase. CER argues that the RFP's evaluation criteria are unduly restrictive and improperly favor the incumbent contractor.

We deny the protest.

The RFP, issued as a 100-percent small business set-aside, calls for the submission of offers on a cost-plus-fixed-fee basis to perform an indefinite quantity, indefinite delivery level of effort contract for a period of approximately 5 years. Award is to be made to the offeror whose proposal offers the best value to the government. The successful offeror will be required to perform cost analysis on complex

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naval weapons systems prior to the "Milestone O" phase of system development. In essence, the RFP calls for the performance of cost analysis services during the initial design and/or conceptual stage of a weapon system's development prior to the time when detailed engineering data is available.

In terms of its evaluation methodology, the RFP provides that technical, management and cost factors will be evaluated, that the technical factors are approximately two and one half times more important than the management factors and that the management and cost criteria are of approximately equal weight. Within the technical criterion, the RFP specifies four subfactors listed in descending order of importance: 1) methodology; 2) resources; 3) experience; and 4) technology currency. The subfactors are to be evaluated for applicability to five weapons systems technologies, including sensors, missiles, electronics, fire control/avionics, and other systems, listed in order of importance. Under the "methodology" subfactor, the RFP provides that the agency will evaluate proposals in light of the offerors' methods of performance and documentation of prior efforts, with significant preference for a demonstrated capability with "parametric" as opposed to "cost engineering" methodologies.<sup>1/</sup> Under the "resources" subfactor, the RFP provides that the agency will consider a firm's proposed resources for the effort and will place primary emphasis upon the capabilities of a firm's proposed individuals rather than upon the firm's corporate capabilities. Under the "experience" subfactor, the RFP provides that significant importance will be placed upon experience relating to surface navy combat systems.<sup>2/</sup> The "technology currency" subfactor provides that experience with "emerging" technologies will be more important than experience with "fielded" technologies. Additionally, the

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<sup>1/</sup> Parametric cost estimating can be used in earlier stages in the development of weapon systems. In this kind of estimating, cost is estimated by examining certain technical or physical characteristics (like weight, speed, horsepower) and their relationship to cost as developed by studies of past jobs, and their costs.

<sup>2/</sup> Amendment No. 0003 to the RFP changed portions of sections "H" and "L" of the RFP relating to the experience of a firm's key personnel. The amendment deleted the requirement that experience be exclusively with complex naval weapons systems and provided that cost analysis experience with the weapons systems of other service branches was acceptable.

RFP provides that experience in all areas is of greater value than experience in only one area.

CER argues that the RFP's evaluation methodology improperly favors the incumbent and does not permit full and open competition. In particular, CER argues that the evaluation methodology places undue emphasis upon experience in parametric cost estimating and that the experience required must be demonstrated through the individual capabilities of a firm's proposed personnel rather than through a firm's corporate experience. CER also argues that the hierarchical listing of types of weapons systems is unfair to firms which have more concentrated experience in only one or a few of the types of weapons systems enumerated. In essence, CER argues that only a firm which has previously performed the requirement being solicited could be in a position to demonstrate the capabilities required under the RFP's evaluation methodology.


An agency is required to specify its needs and select its procurement approach in a manner designed to promote full and open competition. Interior Elements, Inc., B-238117, Mar. 29, 1990, 90-1 CPD ¶ 341. Where a solicitation allegedly favors one firm because of its prior experience as an incumbent for the requirement, our Office will examine the record to ensure that the competitive advantage enjoyed by a particular firm is not due to any favoritism or preferential treatment on the part of the agency. See Burnside-Ott Aviation Training Center, B-229793, Mar. 21, 1988, 88-1 CPD ¶ 236. Restrictive provisions should only be included to the extent necessary to satisfy the agency's minimum needs. Where, as here, a protester has alleged that a solicitation provision is unduly restrictive, our Office requires that the agency provide its justification for the conclusion that the provision in question is required to meet its minimum needs. Id. Once the agency has satisfied this requirement, we generally require the protester to provide our Office with sufficient evidence to support the allegations made in its protest. In this regard, a protester bears the obligation of affirmatively proving its case. See A.N.A.M. Inc., B-228936, Nov. 25, 1987, 87-2 CPD ¶ 522.

Here, we conclude that the Navy has demonstrated that the terms of the subject RFP are reasonably required in order for it to satisfy its minimum needs and that, to the extent that the incumbent enjoys a competitive advantage by virtue of the RFP's terms, that advantage is not a result of favoritism or preferential treatment on the part of the agency. As to the RFP's emphasis on a parametric cost analysis, the agency states that the contract in question is

for the performance of cost analysis during the conceptual/design phase of complex weapons systems. Consequently, the agency states that parametric cost analysis is a more appropriate methodology because the required cost analysis will be performed at a time when none of the engineering and design details are known, details which are essential to the performance of, for example, an effective cost engineering analysis. As to the requirement for individual versus corporate experience, the agency states that it is seeking to acquire the services of individual cost analysts who are capable of effectively meeting the agency's needs and that a firm's corporate experience may not accurately reflect the firm's current personnel profile in terms of expertise in a given cost analysis methodology. The agency therefore states that this evaluation criterion will enable it to more effectively select a firm with individuals possessing extensive experience in the parametric cost analysis methodology. Finally, with regard to the RFP's hierarchical ranking of specific weapons systems, the agency states that this ranking is based upon historical data concerning the relative demand in terms of weapons systems types which will be the subject of cost analysis under the resulting contract. In essence, the ranking of weapons systems reflects the agency's assessment of the nature of the work to be performed under the contract.

Although CER generally disagrees with the agency's conclusion that the RFP's evaluation criteria are "appropriate and necessary," the protester has not provided any information which would show that the evaluation methodology under the RFP does not properly reflect the agency's minimum needs. Specifically, in its comments on the agency report, CER has not even attempted to rebut the agency's detailed rationale for its evaluation methodology. We therefore find that the protester has not met its obligation of affirmatively proving its case.

We deny the protest.

  
James F. Hinchman  
General Counsel